

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAUL VALDEZ-RIVAS

Defendant.

8:20-CR-129

ORDER

This matter comes before the Court on Defendant's Motion to Proceed In Forma Pauperis on Appeal ([Filing 57](#)) and defense counsel's, Bassel El Kassaby's, Motion to Withdraw ([Filing 58](#)).

On April 7, 2021, Defendant and his retained attorney, Mr. El-Kassaby, appeared for sentencing, and the Court imposed the mandatory-minimum sentence of one-hundred-twenty months of incarceration. [Filing 52](#). On April 20, 2021, Defendant, through Mr. El-Kassaby, filed a Notice of Appeal. [Filing 56](#). That same day Mr. El-Kassaby filed the pending motions.

Turning first to the Motion to Proceed In Forma Pauperis on Appeal, the Court will deny the motion. "[A] party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court." [Fed. R. App. P. 24\(a\)\(1\)](#). An affidavit must accompany the motion, and that affidavit must:

(A) show[] in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claim[] an entitlement to redress; and

(C) state[] the issues that the party intends to present on appeal.

[Fed. R. App. P. 24\(a\)\(1\)\(A\)-\(C\)](#).

Because Defendant's motion is unaccompanied by the required affidavit, the Court denies the motion. However, Defendant "may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of" this order. [Fed. R. App. P. 24\(a\)\(5\)](#). That motion must be accompanied by the previously described affidavit. *Id.*

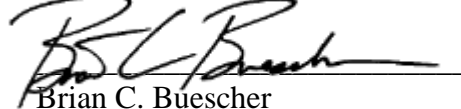
The Court will also deny Mr. El-Kassaby's Motion to Withdraw. [Filing 58](#). "Defendant's trial counsel, whether retained or appointed, shall represent the defendant on appeal, unless the Court of Appeals grants permission to withdraw." 8th Cir. R. 27B(a). Accordingly, the Court will deny Mr. El-Kassaby's motion.

IT IS ORDERED:

1. Defendant's Motion to Proceed In Forma Pauperis on Appeal ([Filing 57](#)) is denied without prejudice to refileing the motion in the Eighth Circuit Court of Appeals; and
2. Bassel El-Kassaby's Motion to Withdraw ([Filing 58](#)) is denied without prejudice to refileing the motion in the Eighth Circuit Court of Appeals.

Dated this 21st day of April, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Brian C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge